

## **PUBLIC SAFETY DEPARTMENT[661]**

### **Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner hereby gives Notice of Intended Action to adopt new Chapter 310, "Sustainable Design Standards," Iowa Administrative Code, with the approval of the Building Code Advisory Council.

Iowa Code section 103A.8B was newly enacted in 2008. It authorizes and requires the Building Code Commissioner, with the approval of the Building Code Advisory Council, to establish sustainable design or green building standards. These standards will be part of the State Building Code but will apply to construction projects only if triggered by another provision of law. During 2008, the standards proposed herein were applied to establish eligibility for enhancements to tax credits which apply to development in designated brownfields and grayfields areas.

The rules proposed herein are considered by the Building Code Commissioner to be the start of an ongoing process of development of sustainable design standards for the state of Iowa. Major developments are occurring in the evolution of these standards and significant changes are likely to occur in the next few years, so it is anticipated that there will be periodic revisions to these standards on an ongoing basis. Nevertheless, it is essential that initial standards be in place by July 1, 2009, as they are specified to be the basis for awarding enhanced tax credits for projects being developed in designated grayfields and brownfields areas.

During the public comment period for these proposed rules, the Building Code Commissioner specifically solicits recommendations for alternative frameworks for evaluating and approving building construction projects as sustainably designed and constructed. In addition, there are types of projects which may have need of standards tailored to the specific requirements of those projects. To accommodate such needs, the Building Code Commissioner solicits comments or suggestions regarding sustainable design standards appropriate to the following types of buildings: (1) Web portal businesses and data centers, (2) schools, and (3) health care facilities. While the United States Green Building Council Leadership in Energy and Environmental Design (LEED) Green Building Rating System includes specific requirements for schools and health care facilities, the Building Code Commissioner is interested in any suggestions or comments for other approaches to establishing sustainable design standards for these types of buildings. Any suggestions or comments regarding any other specialized sorts of occupancies which might be better served with separate standards are also welcome. Any such comments received will be considered for possible inclusion in the adopted rules.

The Commissioner also welcomes comments and suggestions as to how enforcement of the standards should proceed, given that certification of a building as meeting sustainable design standards may not occur until after construction is complete. The standards proposed herein will be used, in some instances, as the basis for tax credits or for enhancements to existing tax credits; in these cases, enforcement may be a matter of withholding the tax credit or enhancement until the required certification is obtained. However, if sustainable design is mandatory for a given building construction project, the enforcement authority needs a mechanism to determine compliance prior to the commencement of construction and for approval of construction plans and, during construction, for inspections. Any suggestions received as to how to deal with enforcement prior to and during construction may be incorporated into the adopted rules.

Comments may be submitted regarding these proposed rules through April 14, 2009, by telephone at (515)725-6185; facsimile transmission at (515)725-6195; mail to Michael Coveyou, Agency Rules

Administrator, Iowa Department of Public Safety, 215 East 7th Street, Des Moines, Iowa 50319; or E-mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us).

A public hearing will be held regarding these proposed rules on April 14, 2009, at 10:15 a.m. in the First Floor Public Conference Room (Room 125) at the State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa. Persons wishing to speak at the hearing are encouraged to contact Michael Coveyou, Agency Rules Administrator, by telephone at (515)725-6185 at least one day before the hearing. The hearing room is fully accessible.

These rules are intended to implement Iowa Code section 103A.8B.

The following amendment is proposed.

Adopt the following **new** 661—Chapter 310:

## CHAPTER 310 SUSTAINABLE DESIGN STANDARDS

### **661—310.1(103A) Scope and purpose.**

**310.1(1) Scope.** The standards established in this chapter shall apply to building construction projects in Iowa that are based upon state or federal statutory requirements; administrative rules adopted by state agencies that own, manage, regulate, or finance building construction projects; or federal regulations.

**310.1(2) Purpose.** The purpose of the standards and requirements included in this chapter is to promote sustainable design in building construction, which may be defined as construction which meets current needs while not compromising the needs of future generations. Sustainable design standards are intended to minimize the adverse environmental impacts of construction and the built environment.

**661—310.2(103A) Definitions.** The following definitions apply to rules 661—310.1(103A) through 661—310.6(103A):

“*Commercial*” means a building construction project that is not residential.

“*Commissioner*” means the building code commissioner.

“*Residential*” means a building construction project which involves a building that exclusively contains dwelling units, has no more than three dwelling units with each unit having a separate means of egress to the exterior of the building, and is not more than three stories above grade.

### **661—310.3(103A) Submission of projects.**

**310.3(1) Building code approval required.** No building construction project shall be approved as a sustainably designed project pursuant to these rules unless construction plans for the project have been approved by the building code commissioner as meeting the state building code or by a local building department as meeting the applicable local building code.

**310.3(2) Projects subject to state building code.** If approval as a sustainably designed project is requested for a project that is otherwise subject to the state building code, the submission materials required by 661—Chapter 300 shall include a statement that approval for the project as sustainably designed is being requested.

**310.3(3) Projects subject to local building codes.** If approval from the building code commissioner is sought for a project that is subject to a local building code and code enforcement, construction plans shall be submitted to the building code bureau as provided in 661—Chapter 300, with a cover letter stating that approval of the project as a sustainably designed project is being requested and that the project has been submitted for review to the local building department. Evidence of approval of the construction plans by the local building department shall be submitted to the building code bureau prior to issuance of the commissioner’s approval of the project as a sustainably designed project.

**310.3(4) Projects not otherwise subject to state or local building code.** If approval as a sustainably designed project is sought for a building construction project that is otherwise not subject to the state building code or a local building code, construction plans for the project shall be submitted to the building code bureau and the project shall be subject to the state building code and to procedures and fees for review of construction plans and inspections as provided in 661—Chapter 300. The cover letter

transmitted with the plans shall state that approval as a sustainably designed project is being requested and that the project is not subject to a local building code enforced by a local jurisdiction.

**310.3(5) *Application form.*** A completed application form prescribed by the commissioner shall be included with the submission of the construction plans for review of any project for which approval as a sustainably designed project is requested.

**661—310.4(103A) Sustainable design criteria for residential projects.** A residential building construction project shall be approved as sustainably designed if it meets either of the following requirements:

**310.4(1)** Satisfaction of the Iowa green streets criteria described in the publication “Iowa Green Streets Criteria,” published by the Iowa department of economic development, community development division; or

**310.4(2)** Satisfaction of any alternative set of criteria submitted in advance to the commissioner and approved by the commissioner as equivalent to the Iowa green streets criteria.

**661—310.5(103A) Sustainable design criteria for commercial projects.** A commercial building construction project shall be approved as sustainably designed if it meets the requirements of 310.5(1) and 310.5(2) or the requirements of 310.5(3).

**310.5(1)** The building receives certification from the United States Green Building Council at the gold level or better in the Leadership in Energy and Environmental Design (LEED) Green Building Rating System; and

**310.5(2)** The building complies with the requirements of ASHRAE 90.1-2007, Energy Standard for Buildings Except Low-Rise Residential Buildings, published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, 1791 Tullie Circle, N.E., Atlanta, GA 30329; or

**310.5(3)** The building satisfies any alternative set of criteria submitted in advance to the commissioner and approved by the commissioner as equivalent to the requirements set forth in 310.5(1) and 310.5(2).

**661—310.6(103A) Fees.**

**310.6(1) *Projects subject to the state building code.*** For any project for which approval as a sustainably designed project is requested from the commissioner and which is otherwise subject to the state building code, the additional fee for review for compliance with sustainable design standards shall be \$100, which shall be paid prior to review of the application.

**310.6(2) *Projects subject to local building codes and code enforcement.*** For any project approved by a local building department as compliant with the local building code and for which approval as a sustainably designed project is requested, a fee of \$250 shall apply and shall be paid prior to the commissioner’s review of the application for approval as a sustainably designed project.

**310.6(3) *Projects not otherwise subject to a building code.*** For any project for which approval as a sustainably designed project is requested and which is not otherwise subject to a building code, the plan review fee shall be the same as the plan review fee for the project established in 661—subrule 300.4(2). An additional fee of \$100 for review for compliance with the requirements set forth in this chapter shall apply and shall be paid prior to review of the plan.

These rules are intended to implement Iowa Code section 103A.8B.